In the High Court of Judicature at Madras

Dated: 21.11.2006

Coram:

The Honourable Mr.Justice M.E.N.PATRUDU

Writ Petition No.12773 of 2006
and W.P.M.P.No.14367 of 2006

French City Sports and Recreation Club,
(Regd.No.366/2001),
rep.by its President Mr.E.Bastian,
270, Kamaraj Salai,
Pondicherry-605 013. ..Petitioner

..vs..

1.The Inspector General of Police,
Pondicherry.

2.The Station House Officer,
SHO, J.Nagar Police Station,
Jipmer, Pondicherry. ..Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from interfering with the smooth functioning and operation of the petitioner club.

For Petitioner : Mr.B.Sathish Sundar

For Respondents : Mr.Vijay Anand for
Government Pleader, Pondicherry.

ORDER

1.00 Can anybody ask the Law Enforcing Agency the Police, not to enforce the rule of law ?

2.00 The answer is certainly not.

3.00 In fact the law of the land gives power and strength to police to prevent offences and detect offenders.

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4.00 Interesting point in this case is whether a Club can ask police not to discharge its duties.

5.00 Sports is an activity involving physical exertion and skill. While so, recreation means lawful enjoyment of licence.

6.00 The petitioner, a Society registered under the provisions of Societies Registration Act.

7.00 The forceful contention of the petitioner is that they are promoting social life and intellectual activities among its members and they have a library with useful books for the purpose of encouragement of Arts and Literary works. It is organising the indoor games and outdoor games, such as Table Tennis, carom, Playing cards, chess, etc. as indoor games and Badminton, Tennis, Volley Ball as outdoor games.

(emphasis supplied)

8.00 The grievance of the petitioner is that the respondents are repeatedly raiding the petitioner's premises and causing inconvenience to the privacy to their recreation activities and the respondents have no right to do so when the petitioner is not indulging in any illegal activities.

9.00 The petitioner is praying for a writ direction, restraining the respondents from interfering with its smooth functioning.

10.00 The Sub-Inspector of Police, D'Nagar Police Station, Pondicherry, filed counter denying all material allegations. In para 4, it is stated that the petitioner, taking undue advantage, is engaged in unlawful and illegal activities in its premises and those activities includes wagering and betting, collecting and soliciting of bets with distribution of monies in respect of the wage or bet and other acts intended to aid and facilitate wagering and betting with instruments of gaming like playing cards. The specific contention of the respondents is that the petitioner has opened gaming house in the premises, which is an offence punishable under the provisions of the Pondicherry Gaming Act, 1965 and there were dice, gaming table, board or other instruments of gaming found in that place and there were several complaints from the locality against the petitioner and as the petitioner is indulging in illegal activities, the respondents intend to prevent the same by way of maintaining law and order.

11.00 Heard Mr.B.Sathish Sundar, learned counsel appearing for the petitioner and Mr.Vijay Anand representing the learned Government Pleader (Pondicherry) appearing for the respondents officials.

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12.00 On behalf of the petitioner, it is contended that the petitioner is not conducting any illegal activities and they are promoting for effective social life and repeated raids by the police is causing inconvenience. But the petitioner clearly admitted in the affidavit that they are permitting playing cards in the premises. Is it a game of chance or game of money and whether it amounts gaming are legal points to be established at criminal trial.

13.00 Under the law of the land, the police is established for enforcing the law. If any cognizable offence is reported to police, the officer being the station House Officer is under duty, not under obligation, to register a case and commence investigation. The offences under Gaming Act are serious offences. When such offences are reported to the police, it is the duty of the police to raid and search the premises and seize the incriminating materials.

14.00 If the petitioner is really law abiding and conducting legal activities, there should not have been any objection for the petitioner to have verification from public functionary. In fact, they should invite the police to conduct a fair search to tell the truth to the society and impress their image. Instead of doing so, the petitioner is indulging in legal battle and seeking for a writ thereby the investigators will not be able to discharge their lawful duties.

15.00 Since there is a specific allegation by the Station House Officer of the concerned police station that the petitioner is indulging in all illegal activities and converting the club premises as a gaming house, the respondents are directed to take immediate action against such activities, if they are true.

16.00 There are no merits in this writ petition as the petitioner is seeking injunction against the respondents, who are the police officials, whose duty is to maintain law and order and prevent the offences and maintain the public peace.

17.00 The petitioner was indulged in frivolous and vexatious litigation and the valuable time and money of the Court and the police are at stake and it is a fit case to impose heavy costs.

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18.00 Thus, the writ petition is dismissed with costs of Rs.25,000/- payable by the petitioner to the State of Pondicherry, within 30 days from the date of receipt of a copy of this order, failing which, the State has to recover as its revenue. Consequently, connected WPMP.is closed.

gl

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Inspector General of Police,
   Pondicherry.

2. The Station House Officer,
   SHO, J.Nagar Police Station,
   Jipmer, Pondicherry.

3. The Chief Secretary to the Government of Pondicherry,
   Pondicherry.

+ 1 cc to Mr. B. Sathish Sundar, Advocate SR No. 56371

+ 1 cc to Senior Government Pleader SR No. 56567

Writ Petition No.12773 of 2006

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